

EXHIBIT O

In the Matter Of:

UNITED STATES vs STATE OF GEORGIA

1:16-CV-03088-ELR

LISA FUTCH

October 25, 2022



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1 ourselves. The DOE does not do this on our
2 information. We talk through it at the end with
3 them -- Okay? -- but this is really -- the only
4 time we complete this plan here is at our
5 post -- Okay? -- for the other two, we don't.

6 And the self-assessment itself, like
7 the first one is not even required. Some of us
8 do it, some of us don't, but the mid-year, the
9 one before December, January is required and the
10 post.

11 So this is just -- this last one is
12 done as a result of our post ratings and this
13 document here basically talks about, you know,
14 our priority, you know, where we're prioritizing
15 for the upcoming year and what -- you know, or
16 how we plan to sustain, if we got a higher
17 rating, how we plan to sustain that, or how
18 we're going to make improvements in that area if
19 it's a low rating.

20 Q Okay. As part of the self-assessment
21 or as part of the strategic plan process, it
22 sounds like you have an opportunity to sit
23 down -- or maybe you should tell me.

24 Is there an opportunity where you're
25 able to sit down with state DOE personnel to

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1 talk through your plan and assessments?

2 A Yes. They actually send us -- now
3 before COVID, they actually came to every
4 program. But after COVID, they send us an
5 e-mail with our dates for our virtual meeting
6 and, of course, we have -- they give us a
7 deadline to have everything submitted because
8 all the documentation actually goes into the DOE
9 portal. And so we get our date, our meeting
10 date is virtual, and we do it virtually and we
11 go through it.

12 Q Who from the state DOE participates in
13 this meeting?

14 A Vickie Cleveland and Lakesha Stevenson.

15 Q And when you say you go through the
16 plan, what does that look like? Are they
17 providing you with feedback? What else happens
18 during those meetings?

19 A Yes. They provide us with feedback.
20 So we go through each area, you know, with our
21 ratings and, you know, I'm pretty honest with,
22 you know, weaknesses and stuff, but, you know,
23 they provide us with feedback and then, you
24 know, I think at the end -- you know, and they
25 tell us typically whether they agreed or not.

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1 Like -- you know, and it's really not
2 threatening at all, you know, and, you know,
3 based on, you know, they'll say, well, you know,
4 well, you know, I agree with that, yeah, and
5 I've not ever had them disagree or anything with
6 me. I mean, I'm not really waiting for them to
7 agree. They don't automatically say it, but
8 most of the time they do, and so that's pretty
9 much it.

10 Q And earlier you mentioned that at the
11 beginning, the state DOE would provide the
12 programs with the state's own rating; is that
13 correct?

14 A Yes. The first two, if I'm not
15 mistaken, the first two ratings actually ranked
16 us, and I don't know if they meant to do that
17 but it ranked us by scores and they sent it out
18 to everybody.

19 Q Okay.

20 A I don't know if they meant to do that.
21 Maybe they just meant to list it, I don't know
22 but -- but they stopped doing that. I think a
23 lot of GNETS directors complained.

24 Q Okay. I was just going to ask you, do
25 you know why that changed?

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1 is the fiscal agent of Coastal. So they decided
2 to go there with Oconee and RESA at that point.
3 And it has been -- I mean, it did what I thought
4 it would do, if that makes sense as far as
5 staffing purposes and focus and all for Coastal
6 Academy.

7 Q And you said that change took effect
8 this current school year?

9 A Yes.

10 Q Have there been any other changes in
11 the school districts or counties served by
12 Coastal Academy in the last five to six years?

13 A Yes. Wayne County was served by
14 Cedarwood, and I believe that was four years
15 ago, and they came to me because they're Baxley,
16 the Baxley site.

17 One of their sites closed, the
18 Cedarwood sites, and my Liberty site was closer,
19 actually, only 20 minutes or 30 minutes from
20 them to transport their kids versus where they
21 were going to have to transport them -- or
22 actually -- yeah.

23 And so Wayne County came over to then
24 Coastal Academy. And that was a very easy swap
25 because Coastal Academy and Cedarwood have the

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1 same fiscal agent, First District RESA, so yeah.

2 Q When these changes are made, do you
3 have to alert the state DOE?

4 A I do, and I did.

5 Q And what is their role, if any, in the
6 process after they've been alerted?

7 A Well, with the Wayne County one, you
8 know, they really were like, oh, this is simple,
9 you guys are under the same fiscal agent, yes.
10 You know, they just kind gave us some guidance,
11 you know, with that and noted, you know, that
12 swap.

13 And with the Camden County this year, I
14 got, okay, let me know when, you know, the
15 decision is made, and I tried to get some
16 guidance but I got -- you know, because this was
17 a bigger issue because it wasn't the same fiscal
18 agent. We have materials. We have inventory.
19 We have, you know, all these things and, you
20 know -- so told me to talk to my business folks
21 at First District RESA.

22 So I talked to them, they told me to
23 talk to my person at the DOE, which I had
24 already talked to and went back to and, you
25 know, they referred me to somewhere else and we

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1 just eventually wound up working it out between
2 the two RESA's and GNETS programs.

3 Q I'm going to show you a document. One
4 moment.

5 I'd like for the court reporter to mark
6 this next document as Plaintiff's Exhibit 542.

7 (Whereupon, Plaintiff's Exhibit
8 Number 542 was marked for
9 identification.)

10 BY MS. HAMILTON:

11 Q And, Ms. Futch, I'm now showing you
12 Plaintiff's Exhibit 542. This is an e-mail
13 dated March 21, 2019.

14 A Yes.

15 Q From you to Vickie Cleveland, other
16 individuals copied. The subject is Wayne County
17 School System GNETS relocation FY20 --

18 A Uh-huh.

19 Q -- as an attachment. The first page --
20 I'm just going to scroll down -- is Bate stamped
21 GA01064131.

22 A Uh-huh.

23 Q I'll give you control if you want to
24 take a quick moment to scan the document and
25 then let me know when you're ready.

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1 A I remember this document, but I just
2 want to look at the plan again.

3 Q Okay.

4 A And I remember this -- the plan -- I
5 mean, the -- what -- when this was developed as
6 well.

7 Q Okay.

8 A Yes. Yes, it's mine.

9 Q All right. So is this communication
10 connected to what you were sharing a moment ago
11 about Wayne County becoming part of your GNETS
12 program?

13 A Yes. And we did -- we had a -- this
14 document was provided to us by the DOE, provided
15 to all GNETS directors because there had been a
16 couple others that had changed or whatever GNETS
17 programs or whatever and they'd been provided to
18 us at that time and which, you know, was
19 somewhat helpful.

20 It helped me think through the process,
21 plan it out, things that needed to be done, and,
22 you know, again, we were supposed to submit that
23 to the DOE and, you know, they would give us any
24 feedback or guidance and, you know, take it from
25 there or whatever. And that we did and it went

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1 extremely, extremely smooth, but for the
2 Camden --

3 Q Okay. And I'm just going to scroll
4 down to the -- this plan that you're referring
5 to.

6 Is this document still currently being
7 used?

8 A No. Well, I asked about it.

9 Q Do you --

10 A Yeah, I don't know about any others,
11 but I asked about it for this past Camden and I
12 was told, no, that we just needed to let them
13 know.

14 Q Okay. So you -- this form GA -- the
15 state DOE was not using this form when you were
16 doing the Camden transition?

17 A Yeah.

18 Q Okay. I just want to look at a few of
19 the areas that are listed here as part of the
20 reintegration or relocation action plan.

21 A Uh-huh.

22 Q So what was your understanding of the
23 purpose of this document?

24 A My understanding was just that -- you
25 know, that this would be a plan that we would

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1 approve even before my fiscal agent does, so it
2 goes there, so.

3 Now, federal, it's a little more -- the
4 federal regs are a little stricter on what we
5 can and can't use money for, but we follow those
6 federal regs that all our local school systems
7 have to follow with IDA money. And -- but,
8 again, it's, you know, in addition to, you know,
9 support, you know, what's needed.

10 And, of course, then we answer those --
11 well, not answer, but, you know, especially if
12 it's interventions and things that we're buying,
13 we have to make sure that we appropriately
14 categorize them, you know, rate them under
15 evidence-based or, you know, those types of
16 things.

17 Q I want to show you a document, and I
18 would like for the court reporter to mark this
19 is Plaintiff's Exhibit 552.

20 (Whereupon, Plaintiff's Exhibit
21 Number 552 was marked for
22 identification.)

23 BY MS. HAMILTON:

24 Q Ms. Futch, I'm currently showing you
25 Plaintiff's Exhibit 152.

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1 A Yes.

2 Q This a March 2018 e-mail chain between
3 you, Vickie Cleveland, and Amber McCollum and
4 some other individuals. The Bates stamp number
5 on this document is GA000829 --

6 A Uh-huh.

7 Q -- 98.

8 A Uh-huh.

9 Q Let me make sure -- let me give you
10 control just to take a moment to scroll through,
11 and then let me know when you're ready.

12 A Yes, I'm ready.

13 Q Okay. Do you recognize this document?

14 A I do.

15 Q Okay. So I want to start at the
16 beginning of the e-mail chain. This was the
17 e-mail dated March 13th, 2018 that you sent to
18 Amber McCollum and Eric Moody.

19 Do you see that?

20 A I do, uh-huh.

21 Q Who is Amber McCollum?

22 A At that time, I believe she was like
23 one of the program specialists or program
24 manager. Like, she was our budget -- you know,
25 everybody is assigned a district -- a budget

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1 person. She was our budget -- GNETS budget
2 person.

3 Q Okay. And who is Eric Moody?

4 A He is the CFO at First District RESA.

5 Q What was the issue that you were
6 bringing to their attention?

7 A Well, I -- again, somata sensory input
8 here. I am starting or beginning the
9 implementation of my trauma-informed care. I
10 had done a little bit of research in this and
11 aromatherapy and things of such and combining
12 other whatever.

13 I wanted to spend some grant money to
14 provide this at -- for all students at -- like a
15 diffuser in each classroom with the oils, right?
16 And so I wanted at first to use federal money
17 because, you know, my understanding, it is a,
18 you know -- I have the research and I did, later
19 on, send additional research that -- where it's
20 based off of and it -- you know, for
21 intervention purposes and the impact it has on
22 mood and, you know, brain and regulation and
23 things like that.

24 So I asked if I could use federal money
25 instead of state, and Amber said, no, that

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1 needed to be in IEP. And I was like, oh, Amber,
2 please. No, I didn't say that but, you know,
3 everything that we buy in federal dollars is not
4 always in the IEP, you know, but that's okay. I
5 went back because, you know -- and, I mean, I
6 had the state money so I just took it out of
7 state.

8 Q And it looks like you also -- Vickie
9 Cleveland was also added to the e-mail chain at
10 some point.

11 What was her position on whether
12 federal funding could be used?

13 A Well, I had discussed it with her
14 first.

15 Q Okay.

16 A Yeah, and she recommended, you know --
17 well, I discussed it with Eric Moody first,
18 who's my CFO, and he was like, talk to Vickie,
19 talk to your DOE. I talked to my person,
20 Vickie, and Vickie said, you know what? I think
21 so but I'm not sure, let's talk to Amber. And
22 so that's why I cc'd her, just make her, you
23 know, knowledgeable that I had done that.

24 Q Okay. So their position, ultimately,
25 was that federal funding couldn't be used to

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1 cover those expenses --

2 A Yes.

3 Q -- is that correct?

4 Okay. And state funding was
5 appropriate for those expenses?

6 A Yes, uh-huh.

7 Q Okay. And what is your sense regarding
8 the distinction between when you can use federal
9 funding versus state -- GNETS state grant
10 funding --

11 A I'm going to be honest with you, they
12 go back and forth. And so my sense, I mean, I'm
13 like, um, so -- but my sense -- I can tell you
14 this, it is easier to buy with state money than
15 federal, just, I mean, -- and I know that
16 everything, there has to be, I mean, justified,
17 of course, and research-based, and I've never
18 asked for anything that wasn't.

19 But, you know, as far as federal cost,
20 again, federal regs and the DOE, they're a
21 little more, they're -- you know, they're more
22 strict, more rigid with federal dollars.

23 Q Okay. I'm going to show you another
24 document.

25 I'd like for the court reporter to mark

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1 this document as Plaintiff's Exhibit 553.

2 (Whereupon, Plaintiff's Exhibit
3 Number 553 was marked for
4 identification.)

5 BY MS. HAMILTON:

6 Q Ms. Futch, I'm showing you Plaintiff's
7 Exhibit 553. This is a January 20th, 2022
8 e-mail request from you to Vickie Cleveland with
9 the subject line, project based learning.

10 A Uh-huh.

11 Q And I also note that there is an
12 attachment to this document. The Bates stamp
13 number is GA00357358.

14 If you want to take a moment to look at
15 it, feel free.

16 A Yeah, I know what it's -- yeah.

17 Q Okay. Do you recognize this document?

18 A I do.

19 Q Okay. On January 20th, 2020, you
20 e-mailed Vickie Cleveland to inquire whether you
21 could use state funds for project-based learning
22 activity; is that correct?

23 A Yes.

24 Q What was the activity?

25 A It was -- I believe that my -- this was

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1 my teacher that was in my autism room, so it was
2 project-based learning. And, again, to make
3 sure -- it was a gardening project with
4 students, so -- and growing, things like that.

5 Q Okay. Why did you believe that this
6 purchase should be covered by state funds?

7 A Well, I mean, actually, I was a hundred
8 -- almost -- well, 90 percent sure it should be
9 state funds and I had called prior to writing
10 this e-mail, Eric Moody, and said Eric,
11 heads-up, this is what I called for. I called
12 to let him know I'm buying this, you know, or
13 going to submit this and I don't want you to
14 think this is what this is for because, you
15 know, I'm asking for seeds and things like that.

16 And he said, oh, yeah, state is -- it
17 probably can come from state, but reach out to
18 Vickie Cleveland and make sure or reach out --
19 he calls her my DOE person to make sure and I
20 said, okay. So my RESA e-mail for things
21 documented it, so I did.

22 And the reason I thought it should be
23 state is after the last thing, I was pretty sure
24 it wasn't going to be federal. And -- and
25 anyway, so that's the e-mail and, yeah, it was

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1 state.

2 Q Okay. And so I don't have the response
3 that you received from Ms. Cleveland, but are
4 you confirming that she did say this --

5 A Yeah, she didn't respond to me in an
6 e-mail, she called me and she told me state was
7 fine.

8 Q Okay. Did Amber McCollum need to be on
9 this e-mail chain?

10 A You know, I don't know. You know, she
11 was on the first one just because Vickie told me
12 to e-mail her, you know, and -- but this was --
13 you know, and I -- see, I'd called Vickie on
14 that first one prior to e-mailing her so this, I
15 just shot Vickie an e-mail, I mean, you know,
16 like my first step, so...

17 Q Okay. But it's not a formal protocol
18 where you have to copy --

19 A No, there is no formal protocol for any
20 -- no, none. This is just me, you know, doing
21 what RESA told me, but also, I mean, you know,
22 trying to make sure I do the right thing, you
23 know?

24 Q Okay. I'm going to next show you
25 another document.

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1 A Yes, uh-huh.

2 Q I'm going to show you another document.

3 And I'd like for the court reporter to
4 mark this as Plaintiff's Exhibit 557.

5 (Whereupon, Plaintiff's Exhibit
6 Number 557 was marked for
7 identification.)

8 BY MS. HAMILTON:

9 Q Ms. Futch, I'm now showing you 557,
10 which has a title, Request for a GNETS
11 consultation, which this is another document
12 that we received in response to our request for
13 production of documents from --

14 A Uh-huh.

15 Q -- Coastal Academy with our internal
16 numbering of 022997.

17 Do you recognize this document?

18 A You want to scroll down so I can see
19 the rest of it or do you want me to?

20 Q Looks like there's one more --

21 A Okay. So it's just the blank one.

22 Yes, I do.

23 Q Okay. Is this the request for GNETS
24 consultation form that you referenced a moment
25 ago when we were discussing flow charts?

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1 A Yes, ma'am.

2 Q Who created this document?

3 A The -- that same committee.

4 Q Okay. And by "same committee," you're
5 referring to the strategic plan?

6 A Yeah. The committee that was developed
7 from the strategic plan to do this, yes.

8 Q Okay. And that was -- okay. And was
9 this document shared with all of the GNETS
10 programs?

11 A Yes, yes, uh-huh. It's the one we were
12 told to use, yes.

13 Q And who told you to use it?

14 A Well, DOE, so that we would have a
15 common request for GNETS consultation. So that
16 was, you know -- part of that, again, strategic
17 plan development was to, you know, ensure that
18 GNETS programs, all 24 of us, you know,
19 implemented a set of common best practices and
20 had some common themes, so yeah.

21 Q Okay. And was that also a similar goal
22 for the flow chart?

23 A Yes.

24 Q All right. So I'm going to return now
25 and stop sharing this document and I'm going to

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1 Yeah, that's -- oh, good. Okay. Hey.

2 Q This is helpful. I'm going to have you
3 confirm for me whether this is what you're
4 referring to, but this is a document I'd like
5 for the court reporter to mark as Plaintiff's
6 Exhibit 558.

7 (Whereupon, Plaintiff's Exhibit
8 Number 558 was marked for
9 identification.)

10 BY MS. HAMILTON:

11 Q It is titled the Confidential Student
12 Information Packet for GNETS and we received
13 this document from Coastal Academy in response
14 to Item 7 in our subpoena for production of
15 documents.

16 Ms. Futch, I'm going to give you
17 control.

18 A Okay.

19 Q Just so you can scroll through since
20 there is a few pages here.

21 A Yes.

22 Q Okay. And do you recognize this
23 document?

24 A I do.

25 Q Is this the student information packet

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1 that you were referring to a moment ago in
2 connection with the standards process?

3 A Yes.

4 Q Who created this document?

5 A Again, that committee that was
6 developed from the strategic plan.

7 Q Okay.

8 A For this.

9 Q And is this another document that the
10 state DOE wanted the GNETS programs to use as a
11 standard document across the programs?

12 A Yes.

13 Q All right. I'm going to stop sharing
14 this document and return back to Plaintiff's
15 Exhibit 556, the GNETS Services Flow Chart.

16 Where we left off, Ms. Futch, you were
17 just explaining that that packet is completed.

18 Once it's completed, what happens next?

19 A It's then sent to the, you know, GNETS
20 coordinator, you know, however it's set up with
21 each GNETS program. So here it's sent to the
22 coordinator. Okay.

23 And the coordinator, you know, gives it
24 a nice review and, you know, calls special ed
25 director, and -- anyway, an IEP meeting is set

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8 Q Okay. And who makes the decision as to
9 whether provisionally certified teachers can be
10 hired within your program?

11 A Well, ultimately, the Board of Control,
12 but I make the recommendation to the executive
13 director of RESA and he makes it to the Board of
14 Control.

15 Q Okay. And would you agree that the use
16 of provisional -- provisionally certified
17 teachers provides more flexibility in terms of
18 staffing and addressing staffing shortages?

19 A Absolutely.

20 Q Okay. And I've got just a couple more
21 questions.

22 Going back to IEP teams and placement
23 in GNETS.

24 To your knowledge, has there ever been
25 a state representative on an IEP team?

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1 A Yes.

2 Q Okay. How many instances would you say
3 that that occurred?

4 A One time.

5 Q One time?

6 A Uh-huh.

7 Q And was that while you were the
8 director -- director in your current capacity?

9 A Yes.

10 Q Okay. Do you know who the state member
11 was?

12 A Zelphine Dixon when she was in her role
13 as director, state director of special
14 education.

15 Q Okay. And other than that instance,
16 are you aware of any other instances in which
17 the state participated in an IEP team decision?

18 A No.

19 Q Okay. And has the state ever
20 encouraged you to make a placement decision
21 contrary to the IEP team's recommendation?

22 A No.

23 Q Okay. And lastly, we discussed a few
24 documents, they were the Coordination of
25 Services Flow Chart, the Request For GNets

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1 Consultation, the Confidential Student
2 Information Packet, and The Guiding Questions
3 For Consideration of Services.

4 A Yes.

5 Q And I believe you testified that you
6 were told to use these documents by the Georgia
7 Department of Education; is that right?

8 A We were -- again, the committee was set
9 up as -- also that strategic plan, developed
10 those documents.

11 They were provided to us from Pat Wolf,
12 who was a GNETS director at one of the GNETS
13 directors meetings to discuss with draft
14 written, and then they were sent to us via
15 e-mail from the DOE.

16 And so I -- and honestly, I did testify
17 that I was told and so -- and, again, I recall
18 them saying we -- you know, all -- you know,
19 them being discussion taking place at that
20 particular GNETS directors meeting among the
21 directors and DOE and us making a
22 recommendation, you know, that we were -- and,
23 you know, DOE, you know, to use these moving
24 forward.

25 And then we did and that e-mail came

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1 from DOE to do so -- I mean, to -- with these
2 documents attached.

3 Q Okay. Do you understand it to be a
4 requirement from DOE to use the documents?

5 A Yes. I felt like it was a requirement.
6 I do understand it that way.

7 Q Okay. And is there any written policy
8 or anything other than the e-mail that you
9 referenced in support of it being a requirement?

10 A No. I think the language in the
11 strategic plan is something along the side,
12 having uniformity, documents or whatever, but I
13 don't know of anything else, no.

14 Q Okay.

15 A Well, we did have a Microsoft -- yeah.
16 The DOE had set up, during that time, like a one
17 book or one notebook, Microsoft something or
18 another, I can't remember. We all had access to
19 it. It was called the GNETS Director's Notebook
20 and those documents were in there, you know, the
21 documents that, you know, GNETS resources and --
22 but those documents were in there listed as, you
23 know, consideration of services, documents,
24 forms, or whatever how they were saved, they
25 were, you know, in there -- that notebook. I